

AMENDED IN ASSEMBLY MARCH 5, 2001
AMENDED IN ASSEMBLY FEBRUARY 13, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 8

Introduced by Assembly Members Migden, Diaz, and Oropeza

January 16, 2001

An act to ~~add Section 363.1 to~~ *amend Section 335 of, and to add Section 342 to,* the Public Utilities Code, relating to public utilities, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 8, as amended, Migden. ~~Public Utilities Commission: electric generators: unscheduled maintenance—~~*Electrical restructuring: Oversight Board: Independent System Operator.*

~~(1) Under existing electrical restructuring in the Public Utilities Act, the Public Utilities Commission regulates the electric generating facilities of public utility electrical corporations.~~

~~This bill would require the commission to require electric generators to defer scheduled maintenance of generating facilities, as the commission determines to be appropriate, in order to maintain the stability of the grid or of the price of electricity in the market. The bill would authorize the commission, notwithstanding specified existing law, and to the extent not prohibited by federal law, to inspect electric generating facilities and order that an electric generating facility not operating due to unscheduled maintenance resume operation. Since a violation of a rule or order of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.~~

~~This bill would require the commission to prepare and submit, monthly, to the chairs of specified legislative committees, a report regarding certain actions taken by the commission under the provisions of the bill.~~

~~This bill would make related legislative findings and declarations.~~

(1) The existing restructuring of the electrical services industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as separately incorporated public benefit, nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the Independent System Operator and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The Oversight Board is granted various powers in order to carry out these purposes.

This bill would expand the authority of the Oversight Board to act on any matters made subject to the approval or determination by the Oversight Board under law, and to investigate any matter and otherwise act consistent with these provisions to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the electric transmission grid and generation system and related costs.

The bill would require that electric generation and transmission facilities be subject to various prescribed availability standards. The bill would require the Independent System Operator to annually prepare and submit to the Oversight Board a proposed protocol for the scheduling of transmission and generation equipment outages for the purpose of maintenance, repair, or upgrade, that is required to be reviewed, approved or revised by the Oversight Board after notice and public hearing. The bill would require the Independent System Operator to utilize the approved protocol for the purpose of scheduling maintenance or other planned outages of equipment and to submit a coordinated outage plan to the Oversight Board. The bill would require the Independent System Operator to develop and submit proposed generation facility maintenance criteria for approval by the Oversight Board after notice and public hearing. The bill would require the Independent System Operator to maintain records of generation facility outages and provide those records to the Oversight Board on a daily basis. The bill would require entities that own or operate certain electric generating facilities to provide reports on a monthly basis to the



Oversight Board that identify any periods the facilities were unavailable to produce electricity or were available at reduced capacity. The bill would authorize the Independent system Operator and the Oversight Board to engage in audits or inspection of facilities that fail to comply with procedures, criteria, or standards established pursuant to these provisions. The bill would require owners or operators of generation or transmission facilities to provide the Independent System Operator and the Oversight Board with information and access to the facilities as necessary to accomplish reasonable audits and inspections. The bill would authorize the Oversight Board to assess a monetary penalty against an owner or operator of a facility found to have failed to comply with criteria, standards, or procedures established pursuant to these provisions. Since a violation of the Public Utilities Act is a crime under existing provisions of law, the bill would create a state-mandated local program by expanding the definition of a crime.

(2) The bill would appropriate \$575,000 from the General Fund to the Oversight Board to be used for the purposes of these provisions.

~~The~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~majority~~ ²/₃. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 *SECTION 1. Section 335 of the Public Utilities Code is*
3 *amended to read:*
4 335. In order to ensure that the interests of the people of
5 California are served, a five-member Electricity Oversight Board
6 is hereby created as provided in Section 336. For purposes of this
7 chapter, any reference to the Oversight Board shall mean the
8 Electricity Oversight Board. Its functions shall be all of the
9 following:

1 (a) To oversee the Independent System Operator and the Power
2 Exchange.

3 (b) (1) To exercise the exclusive right to decline to confirm the
4 appointments of members of the governing board of the
5 Independent System Operator.

6 (2) To determine the composition and terms of service and to
7 exercise the exclusive right to decline to confirm the appointments
8 of specific members of the governing board of the Power
9 Exchange.

10 (c) To serve as an appeal board for majority decisions of the
11 Independent System Operator governing board, as they relate to
12 matters subject to exclusive state jurisdiction, as specified in
13 Section 339.

14 (d) Those members of the Power Exchange governing board
15 whose appointments the Oversight Board has the exclusive right
16 to decline to confirm include proposed governing board members
17 representing agricultural end users, industrial end users,
18 commercial end users, residential end users, end users at large,
19 nonmarket participants, and public interest groups.

20 (e) *To act on any matters made subject to approval or*
21 *determination by the Oversight Board under law.*

22 (f) *To investigate any matter and otherwise act consistent with*
23 *this chapter to ensure that the interests of California's citizens and*
24 *consumers are served, protected, and represented in relation to the*
25 *electric transmission grid and generation system and related costs.*

26 SEC. 2. Section 342 is added to the Public Utilities Code, to
27 read:

28 342. (a) *The Legislature finds and declares that electric*
29 *generation and transmission facilities are critical infrastructure*
30 *and their predictable availability is essential to the public welfare.*

31 (b) *Electric generation and transmission facilities shall be*
32 *subject to availability standards, in accordance with this section.*

33 (c) *Owners or operators of electric generating facilities in the*
34 *State of California shall comply with all standards approved or*
35 *established pursuant to this chapter.*

36 (d) *The Independent System Operator shall prepare and submit*
37 *to the Oversight Board, a proposed protocol for the scheduling of*
38 *transmission and generation equipment outages for the purposes*
39 *of maintenance, repair, or upgrade. The Independent System*
40 *Operator shall resubmit this protocol, including any proposed*

revisions of the protocol, at least annually. The Oversight Board shall review and approve or direct revision of the proposed protocol as it determines is appropriate and necessary to protect the public interest after notice and public hearing. The Independent System Operator shall utilize an approved protocol for the purpose of scheduling maintenance or other planned outages of equipment including the preparation of a coordinated outage plan. The Independent System Operator shall prepare and submit to the Oversight Board, a coordinated outage plan that shall be updated not less than once each quarter.

(e) The Independent System Operator shall develop and submit to the Oversight Board proposed generation facility maintenance criteria. The Oversight Board shall review the proposed generation maintenance criteria and approve or direct revision of the criteria as it determines necessary to protect the public interest after notice and public hearing.

(f) The Independent System Operator shall maintain records of generation facility outages and shall provide those records to the Oversight Board on a daily basis. Each entity that owns or operates an electric generating facility in California with a rated maximum combined capacity of 50 megawatts or greater for all units at a single location, shall provide a monthly report to the Independent System Operator and the Oversight Board that identifies any periods during the preceding month when the facility was unavailable to produce electricity or was available only at reduced capacity. The report shall identify the reasons for any such unavailability or reduced capacity.

(g) The Independent System Operator and the Oversight Board may engage in audits or inspection of facilities that fail to comply with procedures, criteria, or standards established pursuant to this section or for which compliance is in question. Owners or operators of generation or transmission facilities shall provide information and access to the Independent System Operator and the Oversight Board as necessary to accomplish reasonable audit or inspection. The Oversight Board may, on petition of the Independent System Operator or acting on its own motion, and after public notice and hearing, assess a monetary penalty against the owner or operator of a facility found to have failed to comply with criteria, standards, or procedures approved or established pursuant to this section.

1 SEC. 3. The sum of five hundred seventy-five thousand dollars
2 (\$575,000) is hereby appropriated from the General Fund to the
3 Electricity Oversight Board to be used for the purposes described
4 in Section 342 of the Public Utilities Code.

5 following:

6 (a) ~~Shortages in electricity available to public utility electrical~~
7 ~~corporations in this state have resulted in blackouts affecting~~
8 ~~millions of Californians.~~

9 (b) ~~Unanticipated and dramatic increases in the price of~~
10 ~~electricity threaten the public safety and economic security.~~

11 (c) ~~The existing energy shortage requires substantial additional~~
12 ~~authority for the Public Utilities Commission to regulate~~
13 ~~generators of electric power to guard against potential~~
14 ~~manipulation of the market from poorly timed or unauthorized~~
15 ~~maintenance of electric generating facilities.~~

16 (d) ~~It is the intent of the Legislature in enacting this act to~~
17 ~~authorize the Public Utilities Commission to take measures to~~
18 ~~provide that any actions removing electric generating plants from~~
19 ~~supplying power are coordinated to the maximum extent possible~~
20 ~~to maintain stability in the wholesale market for power.~~

21 SEC. 2. Section 363.1 is added to the Public Utilities Code, to
22 read:

23 363.1. (a) ~~The commission may require electric generators to~~
24 ~~defer scheduled maintenance of generating facilities, as the~~
25 ~~commission determines to be appropriate, in order to maintain the~~
26 ~~stability of the grid or of the price of electricity in the market.~~

27 (b) ~~Notwithstanding subdivision (g) of Section 216, and to the~~
28 ~~extent not prohibited by federal law, the commission may inspect~~
29 ~~electric generating facilities and may order that an electric~~
30 ~~generating facility not operating due to unscheduled maintenance~~
31 ~~resume operation.~~

32 (c) ~~The commission shall prepare and submit, monthly, to the~~
33 ~~Chair of the Assembly Utilities and Commerce Committee and the~~
34 ~~Chair of the Senate Energy, Utilities and Communications~~
35 ~~Committee a report regarding any action taken by the commission~~
36 ~~in accordance with this section to order that scheduled~~
37 ~~maintenance be conducted at a specific generating facility at a~~
38 ~~specific time or that a generating facility resume operation from~~
39 ~~unscheduled maintenance.~~

40 SEC. 3.—

1 *SEC. 4.* No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

O

